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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,107	12/06/2001	John Wirth JR.	JHN-3584-7	3906
23117 7590 01/23/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
FELTEN, DANIEL S				
ART UNIT		PAPER NUMBER		
3696				
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01/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JOHN WIRTH, JR.

Application No. 10/004,107
Technology Center 3696

Mailed: January 23, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 9, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

A review of the file indicates that on March 6, 2007, Appellant filed an Amendment After Final in response to the Final Rejection mailed September 1, 2006. It is not clear whether this Amendment has been considered because an Advisory Action has not been mailed or fails to indicate whether or not the proposed amendment will or will not be entered for purposes of appeal. Clarification from the Examiner is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) appropriately respond to the Amendment After Final;
- 2) vacate the Examiner's Answer mailed December 13, 2007;
- 3) provide a new Examiner's Answer including a correct "Status of Amendment" section in addition to correction to other sections as required; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DAL\

Application No. 10/004,107

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